

United States Senate
WASHINGTON, DC 20510

June 22, 2020

TO:

Noel W. White
Chief Executive Officer
Tyson Foods, Inc.
2200 W Don Tyson Pkwy
Springdale, AK 72762

Andre Nogueira
President and Chief Executive Officer
JBS USA
1770 Promontory Circle
Greeley, CO 80634

David w. MacLennan
Chief Executive Officer
Cargill
15401 McGinty Rd W
Wayzata, MN 55391

Kenneth M. Sullivan
President and Chief Executive Officer
Smithfield Foods
200 Commerce St
Smithfield, VA 23430

Dear:

I am writing with concern about new reports that your companies sent massive amounts of pork and other meats to consumers in China while threatening the American public with an impending shortage of beef, pork, and chicken. All the while you put thousands of your workers in harm's way to maintain production, dramatically increased prices for U.S. consumers, and successfully lobbied the President to sign an executive order designating your plants as critical infrastructure that allowed them to continue operating in an unsafe fashion. These actions raise questions about the circumstances of the President's executive order, your honesty with the American public about the reasons for higher food prices, and your commitment to providing a safe, affordable, and abundant food supply for the nation.

In April, while thousands of your workers were falling ill due to your own inability or unwillingness to implement worker protections, your companies warned that the "country [was]

perilously close to the edge in terms of our meat supply”¹ and that “the food supply chain is breaking,”² while publicly pressing federal, state, and local officials to keep plants open. Your warnings of potential shortages prompted retailers to place limits on the amount of meat that customers could purchase.³ Food inflation, led by high meat prices, rose at its highest level in nearly a decade, with the beef index experiencing its largest-ever monthly increase of 10.8% in May.⁴ The Trump Administration responded by issuing an executive order designating meat plants as “critical infrastructure.”⁵ Since then, nearly all your meatpacking plants have reopened, often leading to a resurgence of coronavirus disease 2019 (COVID-19) cases in and around the communities of your meatpacking facilities – an indication of inadequate protections to keep workers safe.⁶ Some reports estimate over 27,000 meatpacking workers have tested positive for Covid-19 and over 90 have died, though your companies’ lack of accurate and timely reporting mean the numbers could be significantly higher.⁷

But a new report indicates that during this same time period, your companies were exporting a record amount of pork – 129,000 tons – to consumers in China.⁸ Tyson Food exported more pork to China in that month than in any month since January 2017.⁹ Smithfield, which is owned by China’s largest pork producer, sent over 9,000 tons of pork to China in the same month – one of its highest monthly totals in recent years.¹⁰ Overall, the share of meat exported by pork producers¹¹ jumped to 32% from an average of 25-27% in the first four months

¹Smithfield, “Smithfield Foods To Close Sioux Falls, SD Plant Indefinitely Amid COVID-19,” April 12, 2020, <http://www.smithfieldfoods.com/press-room/company-news/smithfield-foods-to-close-sioux-falls-sd-plant-indefinitely-amid-covid-19>.

² Washington Post, “The Food Supply Chain Is Breaking’: Tyson Foods Raises Coronavirus Alarm in Full-Page Ads, Defends Safety Efforts,” Katie Shepherd, April 27, 2020, <https://www.washingtonpost.com/nation/2020/04/27/tyson-food-supply-coronavirus/>.

³ New York Times, “As Meat Plants Stayed Open to Feed Americans, Exports to China Surged,” Michael Corkery and David Yaffe-Bellany, June 16, 2020, <https://www.nytimes.com/2020/06/16/business/meat-industry-china-pork.html?smid=tw-share>.

⁴ Food and Environment Reporting Network, “Beef prices soar, food inflation is highest in more than eight years,” Chuck Abbott, June 10, 2020, https://thefern.org/ag_insider/beef-prices-soar-food-inflation-is-highest-in-more-than-eight-years/.

⁵ Donald J. Trump, Executive Order on Delegating Authority Under the DPA with Respect to Food Supply Chain Resources During the National Emergency Caused by the Outbreak of COVID-19, April 28, 2020, <https://www.whitehouse.gov/presidential-actions/executive-order-delegating-authority-dpa-respect-food-supply-chain-resources-national-emergency-caused-outbreak-covid-19/>.

⁶ USA Today, “Coronavirus outbreaks climb at U.S. meatpacking plants despite protections, Trump order, Rachel Axon, June 6, 2020, <https://www.usatoday.com/story/news/investigations/2020/06/06/meatpacking-plants-cant-shake-covid-19-cases-despite-trump-order/3137400001/>.

⁷ Food and Environment Reporting Network, “Mapping COVID-19 Outbreaks in the Food System,” Leah Douglas, Updated June 19, 2020, <https://thefern.org/2020/04/mapping-covid-19-in-meat-and-food-processing-plants/>.

⁸ U.S. Meat Export Federation, “April Red Meat Exports Weather Production Challenges, Economic Headwinds,” June 5, 2020, <https://www.usmef.org/news-statistics/member-news-archive/april-red-meat-exports-weather-production-challenges-economic-headwinds/>.

⁹ New York Times, “As Meat Plants Stayed Open to Feed Americans, Exports to China Surged,” Michael Corkery and David Yaffe-Bellany, June 16, 2020, <https://www.nytimes.com/2020/06/16/business/meat-industry-china-pork.html?smid=tw-share>.

¹⁰ *Id.*

¹¹ USA Today, “As leaders warned of US meat shortages, overseas exports of pork and beef continued,” Kyle Bagenstose, June 16, 2020, <https://www.usatoday.com/story/news/investigations/2020/06/16/meat-shortages-were-unlikely-despite-warnings-trump-meatpackers/3198259001/>.

of this year, largely due to demand from China. In total, your companies exported more than 1.3 billion pounds of beef and pork from March 20 through early June, and “[t]he amount of beef and pork products exported over that time period actually exceeded the amount of lost production” from COVID-19-related problems.¹²

This pattern of behavior raises questions about whether you are living up to your commitments to the workers who produce your pork and beef; the communities in which you operate, and the nation’s consumers that rely on your products to feed their families. It also raises questions about what, exactly, Smithfield meant when the company said that “[w]e have continued to run our facilities for one reason: to sustain our nation’s food supply during this pandemic,” and about how seriously Tyson takes its “responsibility to feed our country.”¹³

Your companies created the conditions that left your workers and the supply chain vulnerable to the COVID-19 pandemic – but instead of addressing them, you used the prospect of food shortages to secure a federal license to put your workers in harm’s way. The dangerous conditions in your plants, including a lack of social distancing and a “work while sick” culture, led them to become COVID-19 hotspots as early as March.¹⁴ By April, thousands of your workers had fallen ill, leading to slowdowns and shutdowns in nearly three dozen plants that hampered meat production and threatened supply.¹⁵ Upon reopening, many plants failed to implement worker protections, like testing and social distancing.¹⁶

Indeed, your companies manipulated this crisis to achieve substantial deregulatory measures that placed your workers at even greater risk. USDA granted more “waivers in one week in April than it had in any previous month over the past eight years” – including to plants with COVID-19 outbreaks.¹⁷ The waivers include allowing plants to increase line speeds, which compound dangerous conditions by putting more workers in close quarters on the line. In fact, a recent investigation found that poultry plants with such waivers are at least 10 times more likely

¹² *Id.*

¹³ Supply Chain Digest, “As Worker Infections Require Closings, the Meat Supply Chain is Broken, Tyson Says,” April 29, 2020, <http://www.scdigest.com/ONTARGET/20-04-29-Tyson-Meat-Supply-Chain-Broken.php?cid=16695>.

¹⁴ USA Today, “Cheap Chicken, Beef Came at a Cost. How American Meat Plants Bred Coronavirus Hot Spots.,” Sky Chadde, May 22, 2020, <https://www.usatoday.com/in-depth/news/investigations/2020/05/21/coronavirus-american-chicken-beef-industry-vulnerable-despite-trump/3107636001/>; Food and Environment Reporting Network, “‘The Workers Are Being Sacrificed’: As Cases Mounted, Meatpacker JBS Kept People on Crowded Factory Floors,” Esther Honig and Ted Genoways, May 1, 2020, <https://thefern.org/2020/05/the-workers-are-being-sacrificed-as-cases-mounted-meatpacker-jbs-kept-people-on-crowded-factory-floors/>.

¹⁵ USA Today, “Coronavirus outbreaks climb at U.S. meatpacking plants despite protections, Trump order,” Rachel Axon, June 6, 2020, <https://www.usatoday.com/story/news/investigations/2020/06/06/meatpacking-plants-cant-shake-covid-19-cases-despite-trump-order/3137400001/>.

¹⁶ Michael Corkery, David Yaffe-Bellany, and Derek Kravitz, “As Meatpacking Plants Reopen, Data About Worker Illness Remains Elusive,” The New York Times, May 25, 2020, sec. Business, <https://www.nytimes.com/2020/05/25/business/coronavirus-meatpacking-plants-cases.html>.

¹⁷ USA Today, “USDA Let Poultry Plants Move Faster, Crowd Lines as COVID Spread,” Skye Chadde and Kyle Bagenstose, April 24, 2020, <https://www.usatoday.com/story/news/2020/04/24/usda-let-poultry-plants-move-faster-crowd-lines-covid-coronavirus-spread-meat-packing-workers/3013615001/>

than the meatpacking industry as a whole to have COVID-19 cases among workers.¹⁸ Now, outbreaks continue to climb.¹⁹

In order to better understand your actions and your rationale for exporting record amounts of product to China at the same time you were warning of shortages, endangering your workers, and dramatically increasing prices for American consumers, I ask that you provide answers to the following questions no later than June 30, 2020:

1. To date, how many of your US workers have become ill from COVID-19? How many have been hospitalized? How many have died? Please provide a breakdown for each U.S. facility that you operate.
2. Please provide a list stating the dates when you implemented Centers for Disease Control and Prevention and Occupational Safety and Health Administration best practices for meat and poultry processors²⁰ to protect workers at each of your plants, specifically including when you implemented the following safety measures: (a) modifying the processing line to accommodate social distancing, (b) installing physical barriers, (c) having workers wear protective personal equipment including masks, and (d) modifying sick leave policies so that ill workers are not in the workplace or penalized for taking leave.
3. What actions do you take when a worker is symptomatic for COVID-19?
 1. Do you provide sick workers with free COVID-19 testing?
 2. Do you provide sick workers with paid emergency sick leave?
 3. When a worker tests positive, do you conduct contact tracing at your plants and provide free testing for other workers identified through contact tracing?
 4. Have your Human Resources personnel or third-party companies charged with screening workers ever told workers to come in if they experience symptoms but are not running a fever?
4. Have you revised your company incentives and policies to ensure that sick workers are not encouraged to keep working?
 1. Do you condition bonuses on 100% attendance? Do you have an attendance policy that penalizes workers for missing work due to illness or missing work due to childcare, or have you reinstated such a policy?
 2. Do you currently provide paid family leave?
 3. Do you penalize workers for absences related to childcare issues?
5. How many tons of (a) poultry, (b) beef, and (c) pork did your company produce in U.S. plants during from March 1, 2020 – May 31, 2020?
6. How many tons of (a) poultry, (b) beef, and (c) pork did your company export to China from March 1, 2020 – May 31, 2020? How did this compare to exports to China over this same time period in 2019?

¹⁸ *Id.*

¹⁹ USA Today, “Coronavirus outbreaks climb at U.S. meatpacking plants despite protections, Trump order,” Rachel Axon, June 6, 2020. <https://www.usatoday.com/story/news/investigations/2020/06/06/meatpacking-plants-cant-shake-covid-19-cases-despite-trump-order/3137400001/>.

²⁰ Centers for Disease Control and Prevention, “Interim Guidance from CDC and the Occupational Safety and Health Administration (OSHA),” May 12, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/meat-poultry-processing-workers-employers.html>.

7. How many tons of (a) poultry, (b) beef, and (c) pork did your company export to countries besides China from March 1, 2020 – May 31, 2020? How did this compare to these exports over this same time period in 2019?
8. What was your company's average increase in wholesale prices for (a) poultry, (b) beef, and (c) pork destined for U.S. consumers from March 1, 2020 – May 31, 2020?
9. What was your company's average change in prices paid to domestic farmers and ranchers for (a) poultry, (b) beef, and (c) pork from March 1, 2020 – May 31, 2020?
10. Did the source of the (a) poultry, (b) beef, and (c) pork you slaughtered change significantly from March 1, 2020 – May 31, 2020? In particular, was there an increase in livestock brought in from outside the United States during this time period?

Sincerely,



Elizabeth Warren
United States Senator



Cory A. Booker
United States Senator